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10/575,302	04/11/2006	Michael Rosenbauer	2003P01482WOUS	6776

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EXAMINER

CORMIER, DAVID G

ART UNIT	PAPER NUMBER
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1711

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/575,302
Filing Date: April 11, 2006
Appellant(s): ROSENBAUER ET AL.

Andre Pallapies
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 31, 2011 appealing from the Office action mailed December 14, 2010 and the Advisory action mailed on February 7, 2011.

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(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 11-22.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN

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REJECTIONS.” New grounds of rejection (if any) are provided under the subheading “NEW GROUNDS OF REJECTION.”

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant’s brief.

(8) Evidence Relied Upon

EP 1332708	Favaro	08-2003
US 5,243,453	Kawaguchi	09-1993
US 5,279,134	Nonogaki	01-1994
UK 2186109	Detterbeck	08-1987

Applicant's Admitted State of the Art

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 11, 14, 18-20 rejected under 35 U.S.C. 102(b) as being anticipated by Favaro (EP 1332708). Favaro discloses a display panel for a home appliance containing program control, including dishwashers. The device includes a lamp 5 which can be an LED (col 3 line 20 - 25).

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Also disclosed is a light conducting means in for the form of a fiber optic cable 7 readable on light shaft. The lamp is oriented to focus the light and reflect it towards a transparent display surface 11. Located in between the lamp and the surface is an automatic color filter 12, capable of selecting various sections 15 by a motor 12. Thus, the subject matter of claims 11, 14, 18-20 are fully anticipated by Favaro.

Claim 11, 14-16 rejected under 35 U.S.C. 102(b) as being anticipated by Kawaguchi (US 5,243,453). Kawaguchi discloses a control panel for washing machines, of which dishwashers are a subset, comprising automatic program control. The panel includes a liquid crystal display board 15, a light source 80, and a color filter 77 disposed therebetween. Glass substrate 69 and polarizing plates 78 read on a transparent surface. The liquid crystal display includes a number of segments having transparency and electrodes that can have voltages applied across them (see figure 14). This is conventional LCD functionality. The LCD is controlled in an electronic manner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 12-13 rejected under 35 U.S.C. 103(a) as being unpatentable over Favaro in view of the admitted state of the art (ASA) OR Nonogaki (US 5,279,134). Favaro teaches an automatically exchangeable color filter disk, but does not disclose an additional non-exchangeable color filter. The inclusion of a such a device is not considered to be patentable. As stated in the admitted state of the art, the prior art required different light means for the reproduction of different colors. Thus, it is understood that the prior art used multiple lamps with non-exchangeable color filters to represent different colors. Many elements read on color filter such as colored bulbs or sheets of colored plastic or glass, which are conventional in the art for providing colored light. Also, Nonogaki discloses a display portion with a singular portion 7 that is individually colored, as opposed to exchangeable. Non-exchangeable filters as well as exchangeable color filters are considered to be conventional. Including an additional filter requires nothing more than routine skill and provides the predictable result of filtering color. Duplication of parts was held to have been obvious. *St. Regis Paper Co. v. Beemis Co. Inc.* 193 USPQ 8, 11 (1977); *In re Harza* 124 USPQ 378 (CCPA 1960). It would have been obvious at the time of invention to modify Favaro and include an additional color filter that is stationary, as is known in the prior art and provides expected results.

Claim 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Favaro in view of Detterbeck (UK 2186109). Favaro discloses the exchangeable color filter and display surface, but does not disclose a mask. Detterbeck discloses an exchangeable mask system for creating symbols on a control panel (see abstract). It would have been obvious at the time of invention to modify Favaro and include an exchangeable mask system, as taught by Detterbeck, with the predictable result of creating symbols on a control panel.

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Claim 21-22 rejected under 35 U.S.C. 103(a) as being unpatentable over Favaro. Favaro discloses a display panel for a home appliance containing program control, including dishwashers. The device includes a lamp 5 which can be an LED (col 3 line 20 - 25). Also disclosed is a light conducting means in for the form of a fiber optic cable 7 readable on light shaft. The lamp is oriented to focus the light and reflect it towards a transparent display surface 11. Located in between the lamp and the surface is an automatic color filter 12, capable of selecting various sections 15 by a motor 12. Favaro does not teach locating a color filter outside of the window. However, duplication of parts was held to have been obvious. *St. Regis Paper Co. v. Beemis Co. Inc.* 193 USPQ 8, 11 (1977); *In re Harza* 124 USPQ 378 (CCPA 1960). Rearrangement of parts was held to have been obvious. *In re Japikse* 86 USPQ 70 (CCPA 1955). Including a second filter disc is nothing more than a duplication of a previously disclosed part, which continues to perform its intended function - modifying color. Furthermore, locating it downstream of the window continues to perform its intended function - modifying color. Absent a showing of unexpected or unpredictable results, such modifications are considered to be routine and well within the skill of one practicing the art. It would have been obvious to one of ordinary skill at the time of invention to modify Favaro, and include multiple color filters, as they are routinely used to modify the color of the light output.

(10) Response to Argument

(a) Claims 11/18 are anticipated under 35 U.S.C. 102(b) by Favaro (EP 1332708).

Appellant argues that Favaro does not teach or suggest "a light shaft arranged in the beam path of the light beam produced by the light means, the light shaft having a reflecting surface on a side thereof facing the light beam" as recited in claim 18. The Examiner respectfully disagrees.

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Favaro teaches a lamp 5 and an optical-fiber cable 7 adapted to transfer part of the light generated by the lamp 5 in the form of coded light information (paragraphs 11 and 12). The optical-fiber cable 7 is broadly and reasonably construed as a light shaft. Appellant further argues that the fiber optic cable would not be considered a semi-spherically constructed light shaft as in the present invention. The Examiner notes that the feature upon which applicant relies (i.e., semi-spherically constructed) is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

(b) Claim 13 is unpatentable under 35 U.S.C. 103(a) over Favaro in view of the admitted state of the art (ASA) or Nonogaki (US 5,279,134).

Appellant argues that Favaro does not teach a placement of at least one color filter disk arranged behind the display surface relative to the beam path of the light beam produced by the light means. The Examiner respectfully disagrees. The location of Favaro's moving chromatic filter 12 is behind the display surface, as the surface "emitting end" 11 is at the front of the machine and emits the light beam. However, even if "behind" means on the exterior of the display surface, such a feature is not considered to be patentable. One of ordinary skill would realize that placing a color filter at the exterior surface of the display would produce the function of further modulating the perceived color of the light. Absent a showing of unexpected or unpredictable results, such a modification is considered to be unpatentable, especially in view of the current state of the art of Favaro and the other cited references.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

DGC

Examiner, Art Unit 1711

Conferees:

/Michael Barr/

Supervisory Patent Examiner, Art Unit 1711

/David A. Simmons/

Quality Assurance Specialist, Tech Center 1700